

By Walid Al-Saqaf

Mohamed Saeed Al-Marqashi never expected to find himself sentenced to death based on a forged court verdict. He did not even know about the court's "decision" until it was delivered to his doorstep in 2004. Since he got the verdict, he has been knocking on government doors with the official document in his hands, struggling to have it reverted or nullified. His only progress was a decision to quietly fire the judge who issued the fraudulent verdict. The sentence remains valid today and may still be put into effect at any moment. As recently as August 2008, Al-Marqashi said he still didn't understand, "why the authorities are refraining from launching a criminal investigation into the crime of forging an official document."

Could the sentence be linked to the unresolved legal dispute between Al-Marqashi and a powerful individual over a piece of land in the coastal town of Zinjibar in the province of Abyan? His latest plea to the Supreme Judicial Council was disregarded as the Council refused to investigate the case or nullify the verdict.

Rampant Corruption in the Judiciary

The case of Al-Marqashi is an example of corruption in Yemen's judicial system, which may arguably be considered the mother of all corruptions since the judiciary is the essence of justice and a guarantee to enforce laws.

A 2006 assessment of corruption in Yemen carried out by the United States Agency for International Development (USAID) presented a bleak picture. The report noted, "Yemen's judiciary is reportedly rife with corruption. Judges are often bribed and in some cases may be able to choose a higher bribe offered by competing parties to a case."

Another more recent report issued in 2008 by Journalists against Corruption confirmed the USAID's findings and added that corruption in the judiciary resulted in long delays in legal cases, some pending for over 14 years.

Although corruption in Yemen is rampant on many levels, corruption in the judiciary has become a serious and growing problem, as noted by prominent Yemeni lawyer Mohamed Naji Allaw, who believes it damages the judiciary's neutrality and independence, resulting in an inability to enforce the constitution and laws equally on all citizens. He argued that corruption is mainly practiced by the powerful who are affiliated with the ruling elite. "Political influence is the major contributor to the lack of

judicial integrity in Yemen,” he said, adding, “The judiciary in Yemen is a partisan judiciary owned by the executive estate that obeys the partisan majority (in the parliament).” Allaw, who also directs the National Organization for Defending Rights and Freedoms, described the status of the judiciary in the country as “dangerous,” adding that any reform efforts that do not promote an honest, independent, and efficient judiciary will eventually falter.⁷

Cases Without Resolution in Sight

Among the recent cases that were widely reported in the local press was the case of Ahmed bin Muayli, who has remained behind bars after being arrested by the Political Security Office on May 6, 2001, without trial. A lawsuit was filed in 2007 by bin Muayli against the President of Yemen, Ali Abdullah Saleh, who, according to the law, is directly responsible for cases of political prisoners. However, as soon as the judge issued an order to the president to appear in court and defend himself, that very judge was summoned to the Ministry of Justice’s Judicial Inspection Committee. Lawyers defending bin Muayli expressed outrage at the direct interference of the Ministry of Justice in the court proceedings. Since then, bin Muayli remains in prison with no end in sight.

One of the more bizarre examples of corruption in the judiciary is the 40-year-old trial started by Gowhara Hameem, an old woman who has not yet given up hope of collecting her due inheritance from her late father who died more than four decades ago. Throughout this period, she obtained verdicts in her favor, but they were never enforced due to various acts of corruption by court clerics whom she accused of forging documents through which her shares were sold to others. In her latest appeal, she staged a sit-in in front of the Court of Appeals building in Taiz City, demanding the court to act upon its verdicts and vowing to continue the sit-in until justice is served.

Corruption in the judiciary becomes more apparent when legal cases receive media attention. One of the widely exposed cases was that of Anisa Al-Shuaibi, who was arrested in Sana’a in 2003. She was initially accused of killing her ex-husband. While in custody, she was raped by officers at the Criminal Investigation Unit of the Ministry of Interior in Sana’a. Upon her release (based on lack of evidence), Al-Shuaibi decided to file a lawsuit against the unit in 2006 with the hope of bringing the culprits to justice. However, after more than a year of deliberations and trial sessions, a verdict was issued in an unannounced hearing, in which one of the main suspects was acquitted and another was given a suspended three-month prison sentence. Both were ordered to pay 1 million Yemeni rials

(US\$4,980) to the victim, who protested the verdict and blamed it on corruption in the judiciary.

The Worst of All Evils

Although political influence in the form of pressure by the powerful few on trial proceedings and judges are common, financial corruption is often used when none of the parties involved in a case has connections to powerful individuals. A 2006 Yemen Polling Center poll on bribery showed that 64 percent of those surveyed believed that the judiciary is the most bribe-ridden sector in the whole country. Despite repeated calls by lawyers and activists, judges that were confirmed to have received bribes were never prosecuted, which contributed to diminishing the citizens' trust in the judiciary as a whole.

In general terms, corruption in Yemen is ranked as some of the worst in the world. Apart from Iraq and Somalia, which remain in a state of war, Yemen was ranked second-to-last among Arab countries in the Corruption Perception Index for 2007 issued by Transparency International (TI). The poor score of 2.5 out of 10 is a reminder of the country's need to focus more on fighting corruption. In relation to corruption in the judiciary however, TI said in another report issued in mid-2007 that "a corrupt judiciary erodes the international community's ability to prosecute trans-national crime and inhibits access to justice and redress for human-rights violations."

The increasing levels of corruption triggered a decision in 2006 by the Yemeni regime to establish the Supreme National Authority for Combating Corruption (SNACC), which was formed through the enactment of the Anti-Corruption Law No. 39 in 2006. The establishment of SNACC presented a glimmer of hope for millions of Yemenis seeking to rid their daily lives of acts of corruption on all levels. One of the sectors that would have benefited tremendously was the judiciary. The ambitions of the Authority were high and work started in the form of auditing assets and income of those holding high public positions. Upon finding potential cases of corruption, such cases were then transferred to the judiciary for processing. However, such a mechanism may not necessarily result in serving justice if the judiciary itself is corrupt.

Another serious obstacle facing SNACC is its inability to audit the accounts of the president and his aides, resulting in a double standard that could effectively diminish its credibility when it comes to equality before the law. Yet even if SNACC were allowed to inspect the president's accounts, and in the case discrepancies were indeed

found, there are no guarantees that the judiciary could have him prosecuted, as an earlier experiment has shown.

To conclude, corruption in the judiciary in Yemen is one of the most severe and critical impediments to overall development, particularly because justice is the basis of social security and peace, which are essential if Yemen is to pursue substantial democratic and economic reforms.